84-63

Office-Supreme Court, U.S.
FILED
JUL 9 1984
ALEXANDER L. STEVAS,
CLERK

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

FREDERICK L. JERRY, Appellant,

-vs-

United States District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellee.

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JURISDICTIONAL STATEMENT

FREDERICK L. JERRY *
(Appearance In Propria Persona as Appellant)
Address 21331 Kipling Street
Oak Park, Michigan 48237
Telephone: (313) 5447736
* Appearance In Propria Persona of record

41pp

QUESTIONS PRESENTED

Appellant in error fail to establish his original Suit No. 80-72246 and the instant Suit No. 82-70212 under Title 28 U.S.C. Section 1331 or his appearance in propria persona, in said Suit No. 80-72 246 or Suit No. 82-70212. The questions here presented are as follows:

1. Whether the District Court being without proper jurisdiction of party in appearance in propria persona pursuant to Title 28 U.S.C. Section 1331 over matter that exceeds the sum or value of $10,000 in the instant Suit No. 82-70212 can constitutionally invoke unto itself such powers?

2. Whether the District Court in its discretionary power can invoke unto itself, power to invalidate Federal Rules Of Civil Procedure Rule 60(b) and Title 28

U.S.C. Section 1655 and deny a hearing and full disclosure of all vestige of fraud in a Suit brought for Fraud On The Court, pursuant to Federal Rules Of Civil Procedure Rule 60(b) under Title 28 U.S. C. Section 1655 that guaranteed right to a hearing and full disclosure of all vestige of fraud?

PARTIES TO THE PROCEEDINGS IN THE SUPREME COURT OF THE UNITED STATES

The only parties to the proceedings in this Appeal before the Supreme Court Of The United States are the parties named in the caption of this Appeal, for the review of District Court's Judgment.

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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

No. _____

FREDERICK L. JERRY, Appellant

-vs-

United States District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellee.

APPEAL FROM

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JURISDICTIONAL STATEMENT

Opinion and Order Below

The District Court entered its Judgment March 25, 1982 against Appellant in

favor of Appellee General Motors Corporation. A copy of Judgment is attached hereto as Appendix B and B-1.

The District Court denied Appellant's Motion To Amend Findings And Judgment March 26, 1984. A copy of Order Denying Motion To Amend Findings And Judgment is attached hereto as Appendix A-1 & A-2.

JURISDICTION

The Judgment of the District Court (App. B and B-1) invalidated Federal Rules Of Civil Procedure Rule 60 (b) under 28 U. S.C. Section 1655 and enjoining its enforcement against Appellee, was entered March 25, 1982. A copy of Judgment is attached hereto as (App. B and B-1).

The District Court's Order Denying Appellant's Motion To Amend Findings And Judgment entered March 26, 1984, thereby affirmed granted Judgment of March

25, 1982. A copy Of Court's Order denying Appellant's Motion is attached hereto as (App. A-1 & A-2).

A Notice Of Appeal was first filed in the United States District Court, Eastern District Of Michigan Southern Division (App. C.).

The Jurisdiction of this Court is Invoked under Title 28 U.S.C. Section 1252 and Title 28 U.S.C. Section 2101(b) and Federal Rules Of Civil Procedure Rule 60 (b) and (1) and (2).

STATUTES AND RULES INVOLED

1. Title 28 U.S.C. Section 1331. 28 U.S. C. Provides:

> (a) The District Court shall have original jurisdiction of all civil actions wherein the matter inconversy exceeds the sum or value of $10,000;

2. Title 28 U.S.C. Section 1653.

3. Title 28 U.S.C. Section 1654. 28 U.S.C. Sec. 1654 provides:

> In all courts of the United States parties may plead and conduct their own cases personally or by counsel as, by the rules of such court, respectively are permitted to manage and conduct causes therein.

4. 28 U.S.C. Section 1655; Federal Rules Of Civil Procedure Rule 60(b) and (1) and (2). Said Rule 60(b) provides:

> (b) Mistake; Inadvertence; Excusable Neglect: Newly Discovered Evidence; Fraud, etc. On Motion and upon such term as are just, the Court may relieve a party or his legal representatives from a final judgment,

---

REFERENCE SYMBOLES

"App." refer to Appendix

"C.C.R." refer to Court Clerk's Record.

"C.C.R. E.N." refer to Court Clerk's Record Entry Number.

"p." refer to page.

"Exh." refer to Exhibit.

order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b).

Statement Of The Case

In original Suit No. 80-72246 filed June 20, 1980 (C.C.R. E.N. 1), and the instant Suit No. 82-70212 filed January 20, 1982 (C.C.R. E.N. 1) Appellant in error fail to establish his Appearance In propria persona, or neither said Suit No 80-72246 or Suit No. 82-70212 under 28 Section 1331.

The said original Suit No. 80-72246 was brought pursuant to Labor-Management 301 Title 29 U.S.C. Section 185, wherein Appellee obtained its fraudulent Judgment (C.C.R. E.N. 46) January 28, 1981 against Appellant, without dutiful and Personally Notification,

TheThe instant Suit No. 82-70212 was brought to vacate Appellant's fraudulent obtained Judgment, January 28, 1981.

Said Suit was brought pursuant to Federal Rules Of Civil Procedure Rule 60(b) under Title 28 U.S.C. Section 1655 for Fraud On The Court (C.C.R. E.N. 1).

The said Suit No. 80-72246 Appellant on February 20, 1981 received an copy of Appellee's Motion For Summary Judgment (C.C.R. E.N. 40). On February 25, 1981 Appellant sent an certified copy of his answer to Appellee's Motion (C.C.R. E.N. 53)

In Suit No. 80-72246 on February 27, 1981 Appellant received a letter from Appellee that notified him it had already obtained its judgment January 28, 1981

In Suit No. 80-72246 Appellant on March 2, 1981 mailed an "Notice" to Appellee General Motors Corporation to make a

settlement, or Appellant would file a motion to vacate Appellee's fraudulent obtained Summary Judgment.

In Suit 80-72246 on October 19, 1981 Appellant filed "Motion to vacate Judgment And Amend Insufficient Pleading And Damages (C.C.R. E.N. 68).

In Suit No. 80-72246 on October 27, 1981 Appellant received official communication that informed him that motion filed October 19, 1981 against Appellee's granted judgment, January 28, 1981 could not be heard or decided; by reason Appellant's filed Appeal to the Appeal Court, removed the suthority of the District Court to act (App. D). Appellant contended there was no relevancy between his Appeal against UAW- Local 735 and Appellee's fraudulent obtained judgment, January 28 , 1981; and stated such in Petition filed

October 29, 1981 (C.C.R. E.N. 69). Further the Appeal filed March 6, 1981 was voluntary dismissed October 8, 1982 by reason Appellant discovered that the District Court lacked jurisdiction under 28 U.S.C. Section 1331 (C.C.R. E.N. 86).

On January 20, 1981 Appellant filed Suit "To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damages," pursuant to Title 28 U.S.C. Section 1655 and Federal Rules Of Civil Procedure Rule 60(b), and was given Docket No. 82-70212 (C.C. R. E.N. 1).

On February 2, 1982 Appellee filed Motion For Involuntary Dismissal and/or Summary Judgment (C.C.R. E.N. 4).

On March 8, 1982 Appellant filed Motion To Dismiss and/or Summary Judgment (C.C.R. E.N. 9).

On March 25, 1982 District Court grant-

ed Appellee an Judgment, against Appellant for Res Judicata (C.C.R. E.N. 10).

The Reasons for granting the Appeal

I

The Questions Are Substantial And Of General Public Importance In The Administration Of Justice

In Appellant's Motion To Amend Finding And Judgment (E.N. 11, see p.2), he made it known unto the Court it lacked jurisdiction under 28 U.S.C. Section 1331; and that Appellant objected to the Court not acknowledging his Suit brought pursuant to 28 U.S.C. Section 1655 and Rule 60(b) before Appellee's Motion For Involuntary Dismmissal and/or Summary Judgment. Still the District Court affirmed its granted Judgment, by denying Appellant's Motion To Amend Findings And Judgmemt, March 26, 1984. That erroneous acting by the District Court in granted

Judgment March 25, 1982, invalidated Federal Rules Of Civil Procedure **Rule 60** (b) under 28 U.S.C. Section 1655 and declared said statute and Rule 60(b) unconstitutional as applied to Appellee. An enactment by Congress to grant relief unto adversed parties, so injured by breach of personal notification or fraudulent obtained judgment, as in this case.

The said obtained judgment of March 25, 1982 is somewhat shroud in a cloud of doubt, by reason of charges of fraud by Appellant. That bring forth the question of the Federal Judicial System's integrity and the obligation toward the protection of that integrity. **A question** that has long ago been put to rest, That fact is acknowledge in the following Court opinion:

"The inherent power of a federal

court to investigate whether a judg ment was obtained by fraud, is beyond question. Hazel-Atlas Co. -vs- Hartford-Empire Co., 322 U.S. 238, 64 S.Ct. 997, 88 L. Ed. 1250. The power to unearth such a fraud is the power to unearth it effectively. Accordingly, a federal court may bring before it by appropriate means all those who maybe affected by the outcome of its investigation. But if the rights of parties are to be adjudicated in such an investigation, the usual safeguards of adversary proceedings must be observed. No. doubt, if the court finds after a proper hearing that fraud has been practiced upon it, or that the very t mple of justice has been defiled the entire cost of the proceeding could justly be assessed against the guilty parties. Root Refining Co. v. Universal Oil Products Co., 169 F.2d 514.

Still further, and of great importance is the questions, that must also be answered: Can the District Court being without proper jurisdiction of party in appearance in propria persona under 28 U.S.C. Section 1654; and without proper jurisdiction under 28 U.S.C. Section 1331

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wherein the matter in controversy exceed the sum or value of $10,000, can invoke unto itself such power? Further, the District Court being without said jurisdiction under 28 U.S.C. Section 1331 or over subject matter in "Propria Persona" in its judicature, make it totally impossible for Appellant in his searh for relief, to pursuit his cause progressively through the judicial process without it being technically dismissed in the Supreme Court Of The United States.

On March 26, 1984 the District Court denied Appellant's Motion To Amend Findings And Judgment (C.C.R. E.N. 46).

On March 28, 1984 Appellant filed Motion To Set Aside Summary Judgment (C.C. R. E.N. 47); and amended pages Exhibit 1 A and Exhibit 2C filed April 5, 1984 (C. C.R. E.N. 49) for the said Motion filed

March 26, 1984; And on April 23, 1984 filed Motion To Set Summary Judgment Aside (C.C.R. E.N. 64).

All the above mention motions include amendments under 28 U.S.C. Section 1653. 28 U.S.C. Section 1653 provides:

> Defective allegations of jurisdiction may be amended, upon terms in the trial or appellate court.

The above statute provision permit the amendment of all types of defective allegations in the appeal process through the Supreme Court without the fear of its appellate jurisdiction being defeated by the district Court. See Moore -vs- Coats Company (1959) 270 F.2d 410; Keene Lumber Co., -vs- Leventhal (1948 Cal Mass) 165 Co., -vs- Leventhal (1948 Cal Mass) 165 F.2d 815; Alderman -vs- Elgin J. & E.R. Co., (1942, CA7 Ill) 125 F.2d 971. Also see McGovern -vs- American Airlines. Inc

(1975, CA5 Tex) 511 F.2d 653. Further the Supreme Court has establish the District Court is the best place to amend defective jurisdiction. Niswonger -vs- American Aviation, Inc (1974, D.C. Tenn) 411 F. Supp. 763.

The granted entry in Suit No. 82-70212 of Motion To Set Aside Summary Judgment (C.C.R. E.N. 47), and "Notice (C.C.R. E. N. 49. seeExhibit 1A & 2C)," and "Motion To Set Summary Judgment Aside (C.C.R. E. N. 64, see Exhibit A & B);" Will cure all allegations of defective jurisdiction.

The District Court's "Order" granting an hearing date April 30, 1984 for Appellant's Motion To Set Aside Summary Judgment (C.C.R. E.N. 47), was adjourn by reason of Appellant's Appeal to the The Supreme Court (C.C.R. E.N. 67).

In Cases wherein jurisdiction was in

question or delinquent, any party had filed appropriate motion to amend such defects, the Supreme Court reversed District Court's judgment, remanded cause back for further consideration. In Mrs. Mattie Baldwin -vs- Mrs. Mary pickens, the Court stated:

> Since the Plaintiff intend to file and have served such an amended complaint in this case curing the defect in the complaint, it is my opinion that the motion to dismiss should be denied at this time and
>
> **It Is So Ordered**

See Mrs. Mattie Sue Baldwin, Plaintiff -vs- Mrs. Mary Picken, Defendant, 208 F. Supp. 889 (1962); Grant Smith, Plaintiff -vs- Fisher Pierce Company, and Richard W. Kennedy, Defendant, 248 F. Supp. 815 (1965); Security Company, Plaintiff -vs- Federal Mutual Implement And Hardware Insurance Company, Defendant, 204 F. Supp 207 (1960).

2. In Appellant's original Suit No. 80 72246, wherein he was not dutiful and personally notified of Appellee's Motion For Summary Judgment, said Appellee with a faulty Certificate Of Service and articulate oral persuasion obtained an summary judgment against Appellant, January 28, 1981 Civil Action No. 80-72246 (C.C.R. E.N. 46). Said Appellee with its "Motion For Involuntary Dismissal," so deceptively altered and edit to misrepresent the fact, was able and did obtain an judgment for the second time against Appellant in the instant Suit for Res Judicata. In the obtaining of said judgment of March 25, 1982, Appellee lead the Court to believe Appellant's Suit No. 82-70212 brought pursuant to Federal Rules Of Civil Procedure Rule 60(b) under 28 U.S.C. Section 1655 For Fraud On The

Court, was brought against Appellee for the same Labor-Management dispute under 301 Title 29 U.S.C. Section 185, wherein it was granted an judgment January 28, 1981. The said Rule 60(b) under 28 U.S. C. Section 1655 provides:

> This Rule does not limit the power of a court to entertain an independant action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Title 28 U.S.C. Section 1655, or to set aside a judgment for fraud upon the Court.

The above stated rule and statute provision, grant relief from "breach of personal Notification" and all attempts of Fraud Upon The Court," by guaranteed reopening of all cases wherein party was not personally notified, and the guaranteed right to a hearing and full disclosure of all vestge of fraud in a case; and in cases for fraud upon the court,

priority is the precedent over all other cases irregardless of the nature.

II

The Supreme Court Has Previously Reversed Judgments on the Issue of Fraud On The Court Under FRCP 60(b) and Title 28 U.S.C. Section 1655; the Same Reasons Compel Review in The Instant Case.

The District Court erred in concluding that the incidental allegations by the Appellee that Appellant's Suit For Fraud On The Court is an attempt to retrial Labor-Management dispute on which it was granted an judgment January 28, 1981. In light of the more substantial and legitimate questions involving Fraud On The Court; and its great importance to the judicial and public interest. And too, the important part the Federal Rules Of Civil Procedure Rule 60(b) under 28 U.S.C. Section 1655 serve the public and the

Federal Judicial System in its administration of justice. This Court I pray will note the importance and necessity to "Review the excercise of the grave power of annulling an Act of Congress." 375 U. S. 962 (United States -vs- Barrett, 375 U.S. 962). In the case United States -vs- Cainey 380 U.S. 63, 65.

The District Court further erred by not defering to the determination of the wisdom of legislation enacted pursuant to Federal Rules Of Civil Procedure Rule 60(b) under 28 U.S.C. Section 1655, and the litigations and opinions of other courts upon such a grave issue as Fraud Upon The Court, and most especially the opinions of the Supreme Court Of The United States Of America.

All Courts have most vehemently voice their displeasure against any attempt to

subvert the administration of Justice.

The part of said rule provision and statute Title 28 U.S.C. Section 1655 dealing with Fraud On The Court, was enacted to curb all such actual participation in such an wrongful act; and the Supreme Court gave it teeth, not only to curb actual participation but the very thought, which is why they denied all forms of relief, irregardless of how well constructed the offenders defense may be or how poorly the defense of the adversed parties might be, and if it be found that the guilty parties did not keep its hands clean throughout the litigation while in equity. Therefore the District Court's Judgment of March 25, 1982 should be set aside, and an order for an expeditious Hearing of Appellant "Suit To Set Aside And Vacate Judgment

Obtained By Fraud On The Court, And For Damage," be issued as a matter of Law.

Further, the fact concerning the "Clean Hands" policy is well establish in Root Refining Co. -vs- Universal Oil Products Co. 169 F.2d 514; and above all, in the Supreme Court Of The United States, wherein a case the Honorable Justice Black, delivered the opinion of the Court:

> "Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institution set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public be mute and helpless victims of deception and Fraud." Hazel -Atlas Co. -vs Hartford Empire Co. 322 U.S. 238 (1944).

Also see Greater Boston Television Corp

-vs- FCC, C.A. 1971, 463 F.2d 268; U.S. -vs- International Tel & Tel. Corp., D. C. Conn. (1972) 349 F. Supp. 22, 38: also see Chicago Title & Trust Co. -vs- Fox Theatres Corp., D.C.N.Y. 1960, 182 F. Supp. 18, 38.

CONCLUSION

In my almost non-existence knowledge in law and most humble opinion, I Frederick L. Jerry, Appellant do say: Besides the question whether the District Court abused its discretion in the charged invalidation of certain statutes and rules, there is only two questions in the case below, that need answering concerning Appellant and Appellee, and neither of which is piecemeal or Res Judicata; But rather, (1) Did Appellee General Motors Corporation obtained an Judgment by fraudulent means, and too up

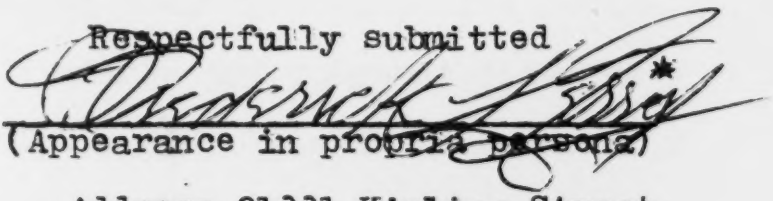
obtain Judgment by fraudulent means, and too, upon matters not sought in the original Suit No. 80-72246? (2) Did Appellant have a cause against Appellee General Motors Corporation?

Appellant also say with emphasis:
appear to have been a purpose designed scheme of deception on the part of the deception on the part of the Appellee in this case; that greatly parallel incidence in Root Refining Co. -vs- Univeral Oil Products Co.---American Safty Table Co. -vs- Singer Sewing Machine Co. 169 F.2d 514 from the "Get Go" (beginning to end).

WHEREFORE, and for all the above reasons Frederick L. Jerry, Appellant request and that this Honorable Court set aside the Judgment granted by the District Court unto the Appellee General Motors

Corporation, and remand cause back with orders for an expeditious Hearing of Appellant's Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damages; Appellant further prays and request that his "Motion To Set Aside Summary Judgment (.C.C.R. E.N. 47)," and "Notice" filed April 5, 1984(C.C.R. E.N. 49), and "Motion To Set Summary Judgment Aside (C.C.R. E.N. 64)" be granted entry in Suit No. 82-70212. And whatever other relief as may be just.

Respectfully submitted



(Appearance in propria persona)

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APPENDIX A-1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,

Plaintiff,

-vs- Case No. 82-70212

GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION,

Defendant.

Order Denying Plaintiff's Motion To Amend Findings And Judgment, And Request To "Cancel" Said Motion

Before the court is plaintiff's motion to amend findings and judgment filed on April 2, 1982, and plaintiff's request that the court "cancel" that motion, which request is contained in his "Petition for Information and Consideration" filed on December 6, 1982.

The court having considered plain-

being fully advised in the premise, and finding no reason to amend its findings and judgment,

IT IS HEREBY ORDERED that plaintiff's motion to amend findings and judgment be and hereby is denied.

The court having also considered Plaintiff's request to "cancel" his motion to amend findins and judgment, and judgment, and treating that request as a request to withdraw said motion, having by this order denied said motion, having received the entire file and being fully advised in the premise,

IT IS HEREBY ORDERED That plaintiff's request be and hereby is denied.

APPENDIX A-3

IT IS SO ORDERED.

Anna Diggs Taylor
Anna Diggs Taylor
U.S. District Judge

Dated: Mar 22, 1984

Filed Mar 26 9:18 AM 84

APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,

Plaintiff,

C.A. No. 82-70212

v.

Hon. Anna Diggs Taylor

UNITED AUTO WORKERS LOCAL 735
and GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION,

Defendants.

ORDER GRANTING SUMMARY JUDGMENT
TO DEFENDANT GENERAL MOTORS CORPORATION

At a session of said Court held in the U.S. Courthouse, Detroit, Michigan on

24 Mar 1982

PRESENT: Honorable Anna Diggs Taylor
U.S. District Judge

Defendant General Motors Corporation, Hydra-Matic Division, having filed its Motion For Involuntary Dismissal and/or Summary Judgment herein, and having brought same on for hearing on March 15, 1982; and the Court having

APPENDIX B-1

heard oral argument in support of and opposition to Defendant's Motion as well as having reviewed all pleading filed herein; and it appearing to the Court Plaintiff's alleged cause of action is barred by the doctrine of res judicata, being essentially the same cause of action that was summarily dismissed by this Court on January 28, 1981.

NOW, THEREFORE, IT IS HEREBY AND ADJUDGED that the Motion of General Motors Corporation, Hydra-Matic Division, be granted and that summary judgment be and hereby is entered against Plaintiff Frederick L. Jerry and in favor of General Motors Corporation, Hydra-Matic Division.

ANNA DIGGS TAYLOR
United States District Judge

By Sherry Stamps

APPENDIX C.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

Docket Number 82-70212

FREDERICK L. JERRY, Plaintiff,

-vs- Hon. Anna Diggs Taylor
(District Court Judge)

GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION, Defendant.

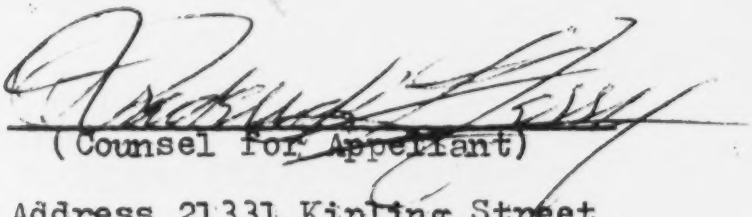
NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Frederick L. Jerry, the Appellant above named, hereby appeal to the Supreme Court of the United States from the final judgment of the United States District Court for the Eastern District of Michigan, Southern Division entered March 24, 1982 (See attached SUMMARY JUDGMENT ORDER) and affirmed April 26, 1981 (See attached

APPENDIX C-1

"Order" denying 52(b) motion).

This appeal is taken pursuant to Title 28 U.S.C. Section 1653 and Federal Rules Of Civil Procedure Rule 60(b) and (1) and (2).



(Counsel for Appellant)

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DATE:

COPY 6 - PLAINTIFF'S COPY

APPENDIX D

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
Detroit, Michigan 48226

October 27, 1981

Chambers of
Anna Diggs Taylor
District Judge

Mr. Frederick L. Jerry
21331 Kipling
Oak Park, Michigan 48237

Dear Mr. Jerry:

The Court is in receipt of your "Motion To Vacate Judgment, Amend Insufficient Pleading and Damages" filed on October 19, 1981.

The motion cannot be heard or decided however, as your pending appeal, filed on March 13, 1981, removed the authority of this court to act in your case. The Sixth Circuit Court of Appeals now has jurisdiction over this matter,

APPENDIX D-1

and all of your pleadings should be directed to that court.

Very Truly your

Marcia E. Fishman
Marcia E. Fishman
Law Clerk to Judge Taylor

MEF/bk

Supreme Court, U.S.
FILED
AUG 14 1984
ALEXANDER L. STEVAS
CLERK

No. 84-63

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

FREDERICK L. JERRY, Appellant,

-vs-

United States District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellee.

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MOTION TO AMEND INSUFFICIENT JURISDICTIONAL STATEMENT BY DELETIONS AND ADDITIONS

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Mrs. Mattie Sue Baldwin -vs- Mrs. Mary Picken 208 F. Supp. 889(1962). 8

Security Company -vs- Federal Mutual Implement And Hardware Insurance Company 204 F. Supp. 207(1960). 8

RULES

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STATUTES

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No. 84-63

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1984

FREDERICK L. JERRY, Appellant,

-vs-

United State District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellee.

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JURISDICTION

On March 25, 1982 Appellee was granted Summary Judgment Against Appellant.

On March 26, 1984 Motion To Amend Finding And Judgment, was denied.

The Jurisdiction Of This Court is invoked pursuant to 28 U.S.C. Section 1252.

MOTION TO AMEND INSUFFICIENT JURISDICTIONAL STATEMENT BY DELETIONS AND ADDITIONS

TO THE DISCRETION OF THE COURT

To The Judge:

NOW COMES Frederick L. Jerry, Appellant and bring this Motion To Amend Insufficient Jurisdictional Statement By Deletions And Additions, pursuant to Rules Of The Supreme Court Rule 42 and para. 4, and Federal Rules Of Civil Procedure Rule 15(a) and (b), Rule 8(c) and (e), and Rule 60(b) and (1) and (2) and Title 28 U.S.C. Section 1651 and Title 28 U.S.C. Section 1653; on the grounds the granting of this motion will make clear the relief sought; on the grounds the granting of this motion will make known the existing probable jurisdiction to the Court, and thereby avoid an miscarriage of Justice.

I. STATEMENT OF CASE

On July 25, 1984 or thereabout Appellant's Jurisdictional Statement, that is insufficient in its plead, and contain errors, was docket No. 8463.

March 28, 1984 to correct the instant case defective jurisdiction under Title 28 U.S.C. Section 1331, Appellant filed Motion To Set Aside Summary Judgment, and "Notice (docket No. 49)" that contain amended jurisdiction statement under 28 U.S.C. Section 1653, in Exhibit 1A & 2C and No. 1 and No. 2, attached hereto as Appendix 1A & 1C & A & B. The Court's issued 2Order" for hearing of said Motion is attached hereto as Appendix AA.

To correct the District Court's lack Of Jurisdiction over subjectmatter in propria persona, Appellant filed Motion under Title 28 U.S.C. Section 1653 "To Set Summary Judgment Aside(docket en-

try No. 64) pursuant to Fed. Rules Of Civ. Pro. Rule 60(b) and (1) and (2), thereby all the above mention motions, "Probable Jurisdiction" exist.

The provision of Federal Rules Of Civil Procedure and its Statutes are as follows:

> Rule 15(a)Provides means to cure a defective pleading.
>
> Rule 60(b) provides: the Court may relieve a party or his legal representative from final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2)Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial. Rule (b) does not limit the power of a court "To set aside a judgment for fraud upon the Court," 28 U.S.C. Section 1655;
> Title 28 U.S.C.Section 1653 expressly provides that "defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate Court.

The Court issued an "Order" cancelling hearing date of "Motion To Set Aside Summary Judgment," by reason Appellant had filed his Appeal April 24, 1984.

A copy of said "Order" is attached hereto as Appendix BB.

II REASONS FOR GRANTING MOTION

Pursuant To Federal Rules Of Civil Procedure Rule 60(b) and (1) an d (2), the newly discovered evidences in all the above mention docket entries must be entered in the instant case No. 82-70212.

Further said case remand back to District Court will enable its errors to be corrected by an new hearing for a full disclosure of all vestige of fraud in said case for fraud on the Court, pursuant to said Rule 60(b) and 28 U.S.C. Section 1655 and thereby enable all filed motions to be simultaneously determine by the District Court; thereby cure all Allegations of defective jurisdiction over

all subject matters, that are necessary in the Court's judicature, in its sound judgment to achieve ends of justice entrusted to it; As well as its essential necessity to prevent Appellant's case from being technically dismissed in the Court Of Appeals and thereafter in the Supreme Court, If Appellant pursuit his cause progressively through the ordinary judicial procedure, without waiting to have his case tried upon the charges it was establish. Further without the refer of case No. 82-70212 back to District Court would be a grave miscarriage of Justice and make it totally impossible for Appellant to reap the benefits of the above mention motions after the Court's determination. Still further where the subject concerns the enforcement of the Rules which by law it is the Duty of the Court to formulate and put in force. And to en-

force that obligation all courts have the power under Title 28 U.S.C Section 1651 (a).

LII. RELEVANT AUTHORITIES

Several Federal Courts have relied upon the statute 28 U.S.C. Section 1653 to allow Rule 15(a) amendments to cure different types of deficient statements of subject matter jurisdiction at various stages of the action; Wherein a case, a plaintiff was allowed to amended the complaint to add party plaintiffs, some of whom were citizens of the state as was one defendant. See Barrow Dev. Co. V. Fulton Ins. Co., C.A.9th, 1969, 418 F.2d 316.

It has been establish by the Court, If party cause had defective jurisdiction and had filed appropriate correction motion, the Court would remand cause

back for further consideration. See Mrs, Mattie Sue Baldwin -vs- Mrs. Mary Picken, (1962) 208 F. Supp. 899; Grant Smith -vs- Fisher Pierce Company, and Richard W. Kennedy, 248 F. Supp. 815 (1965); Security Company -vs- Federal Mutual Implement And Hardware Insurance Company 204 F. Supp 207 (1960)

CONCLUSION

For all the above reason, Appellant prays that this Honorable Court his Motion To Amend Insufficient Jurisdictional Statement By Delections And Additions; and grant him leave to file declaratory amended pages No. 23 & 24 and 31 of the Jurisdictional Statement filed June 23, 1984 and docket July 25, 1984 No. 84-63 or thereabout, and attached hereto as Appendix 23 XX, & 24 XX-1, and Appendix 31 C-1, with all

new added amendments underlined; Appellant further prays and request that he be granted leave to file the said declaratory amended pages 23 & 24 and 31 as they appear in the hereto attached Appendix 23 XX, & 24 XX-1 and Appendix 31 C-1 upon The Honorable Anna Diggs Taylor and General Motors Corporation and others, for the purpose of alleging the matters of facts aforesaid as they appear therein.

Probable Jurisdiction Should Be Noted*

Respectfully submitted

Frederick Kiss*

(Appearance in propria persona)

Address 21331 Kipling Street

Oak Park Michigan 48237

Telephone: (313) 5447736

*Appearance in propria persona of record.

No. 84-63

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

FREDERICK L. JERRY, Appellant,

-vs-

United States District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellant

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AFIDAVIT OF FREDERICK L. JERRY

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

I, Frederick L. Jerry, Appellant being first duly sworn deposes and says as follows:

I have a personal knowledge of the matters in this Affidavit and an compet-

ent to testify as to those matters:

On or about 20th day of January Frederick L. Jerry (hereinafter-Appellant) filed the instant Suit No. 82-70212 that is an out growth of wrongs committed during tthe trial of his original Suit No. 80-72246; wherein Appellant like-wise fail to establish neither said Suit under Title 28 U.S.C. Section 1331 or his appearance in propria persona, under Title 28 U.S.C. Section 1654. Such failure of Appellant created defective jurisdiction in both said Suits.

2. That said original Suit No. 80-72246 was summarily dismissed January 28, 1981 in favor of Appellee.

3. That the instant Suit No. 82-70212 brought to vacate Appellee's granted judgment of January 28, was summarily dismissed March 25, 1982. Thereafter Appellant filed Motion To Amend Findings And

Judgment, April 2, 1982; said Motion was denied entry March 26, 1984.

4. That Appellant on March 28, 1984 filed "Motion To Set Aside Summary Judgment," and on April 5, 1984 filed "Notice," that contained jurisdiction amendments to correct said defective jurisdiction in both said Suits.

5. That on April 18, 1984 the Court issued an "Order" for an oral hearing of Appellant's Motion To Set Aside Summary Judgment," filed March 28, 1984.

6. That on March 24, 1984 Appellant filed an Appeal to The Supreme Court Of The United States, in the District Court.

7. That on April 27, 1984 the Court issued an "Order" cancelling said oral Hearing of Appellant's Motion.

8 8. Appellant contend without refer of his Suit No. 82-70212 back to District Court or an "Leave To Amend Defective

Jurisdiction," would make it impossible for him to receive his rightfully due benefits of the motions filed or the relief granted by law.

Frederick L. Jerry-Appellant

Address 21331 Kipling Street

Oak Park, Michigan 48237

Subscribed and sworn to before me
this 13th day of August 1984

Deborah L. Miller

Notary Public
My Commission Expires:

DEBORAH L. MILLER
Notary Public, Wayne County, Mich.
Acting in Oakland County, Mich.
My Commission Expires April 30, 1985

APPENDIX 1A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY, Case No. 82-70212

Plaintiff,

-vs- Hon. Anna Diggs Taylor

GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION,

Defendant,

SUIT TO SET ASIDE AND VACATE JUDGMENT OBTAINED BY FRAUD ON THE COURT, AND FOR DAMAGES

JURISDICTION

This Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damages, was filed January 20, 1982. The Jurisdiction of this Court is Invoked under Title 28 U.S.C. Section 1331 and Title 28 U.S.C. Section 1654

This Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damage, is brought pursuant to Federal Rules Of Civil Procedure Rule 60(b)(3), Rule 52(b), Rule 59(b), Rule 15(a) and (c), under Title 28 U.S.C. Section

APPENDIX 2A

1655, and Title 28 U.S.C. Section 1471; NOW COMES Plaintiff and states as follows:

1. Plaintiff charge Defendant did not dutifully notify him before fraudulent obtainment of summary judgment, January 28, 1981.

2. Plaintiff charge Defendant with fraud upon the Court with with willful, wanton and malicious intent to subvert the administration of Justice; thereby caused the Court to error in granting the Defendant's Summary Judgment January 28, 1981, by deceiving the Court to believe Plaintiff had been duly notified of the charges and Hearing date of January 26, 1981, in Defendant's Motion For Summary Judgment.

3. Plaintiff charge Defendant with fraud in obtaining Summary Judgment, of January 28, 1981 by reason Defend-

APPENDIX 3 A

ant did not notify Plaintiff of its Motion For Summary Judgment until February 20, 1981; Thereby with willful, wanton and malice, denied said Plaintiff the opportunity to present the merits of his case.

4. Plaintiff charge Defendant with willful, wanton and malicious forethought in attempt to conceal and delay Notice of

Certified No. P17 0644259

APPENDIX 2C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY

Kipling Street

Oak Park, Michigan 48237
Plaintiff,

-vs-

Case No. 80-72246

Judge: Anna Diggs Taylor

UAW * LOCAL 735

48055 Michigan Ave 48187 &

GMC-HYDRA-MATIC DIVISION,

YPSILANTI MICHIGAN 48197

PLAINTIFF'S SUIT FOR RECISSION AND DAMAGES

JURISDICTION

The Jurisdiction Of This Court Is Invoke Under Title 28 U.S.C. Section 1331 and Title 28 U.S.C. Section 1654

NOW COMES Plaintiff, in support of suit for Recission and Damages states as follows:

APPENDIX 3C

1. This Suit at law is brought in pursuant to Section 301 of the Labor Management Relation Act 29 U.S.C. Section 185, in Breach of Duty and Breach of Collective Bargaining Agreement, for Recission And Damages.

2. Plaintiff charge: UAW-Local 735 and GMC-Hydra-Matic Division with Fraud, in negoiating unlawful Settlement of 1-17-19 or thereabout, in violation of legal document of August 29, 1978, filed by Plaintiff at time he filed protest grievance to discharge of August 30, 1978 to prevent such irresponsible and harmful Settlement of 1-17-79 without Plaintiff's signature.

3. Plaintiff charge: UAW-Local 735 in Breach of Duty and GMC-

(continue page 3)

Frederick L. Jerry
Plaintiff and acting Atty

Certified No. P17 0644259

APPENDIX A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

28 U.S.C. Section 1:863

The Jurisdiction Of This Court is Invoke under Title 28 U.S.C. Section 1331

Request- To Court Clerk- FOR ENTRY OF ~~xxx~~ APPEARANCE OF PARTY IN PROPRIA PERSONA

PURSUANT TO title 28 U.S.C. Section 1654; Federal Rules Of Civil Procedure Rule 5 (a), Rule 79(a)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,
Civil Case No. 80-72246
Plaintiff,
Hon. Anna Diggs Taylor
-vs-

UAW - LOCAL 735 and
General Motors Corporation,
HYDRA-MATIC DIVISION,

Defendants

TO: Clerk of the United States District Court For The Eastern District Of Michigan Southern Division.

APPENDIX A1

You are hereby request to enter my appearance in Propria Persona as Plaintiff in the above-entitled action.

Frederick L. Jerry

Address 21331 Kipling St.
Oak Park, Michigan 48237

Dated: June 20, 1980

APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

28 U.S.C. Section 1:863

The Jurisdiction Of This Court is Invoked under Title 28 U.S.C. Section 1331

Request- To Court Clerk- FOR ENTRY OF APPEARANCE OF PARTY IN PROPRIA PERSONA

PURSUANT TO Title 28 U.S.C. Section 1654; Federal Rules Of Civil Procedure Rule 5 (a), Rule 79(a)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,
Civil Case No. 82-70212
Plaintiff,
Hon. Anna Diggs Taylor

-vs-

GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION,

Defendant

TO: Clerk of the United States District Court For The Eastern District Of Michigan Southern Division.

APPENDIX B1

You are hereby requested to enter my Ap pearance in Propria Persona as Plaintiff in the above-entitled action.

Frederick L. Jerry

Address 21331 Kipling St.

Oak Park, Michigan 48237

Dated January 20, 1982

APPENDIX AA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Frederick L. Jerry,

Plaintiff(s)

Case No. 82-70212

-vs-

General Motors Corp. , etal

Defendant(s)

ORDER SETTING BRIEFING SCHEDULE AND DATE FOR ORAL ARGUMENT

Plaintiff having filed a motion to set aside summary judgment and the court wishing to hear oral argument on said motion,

It is hereby ORDERED that any and all response(s) to said motion be filed with the Clerk of the Court on or before April 16, 1984 , and that any reply brief, s should the movant desire to file a reply brief, shall be filed with Clerk of the Court on or before April 20, 1984 .

If the non-moving party does not file a respobse to said motion by the date specified above, or obtain from the court an extension of time within which to file said response,

APPENDIX AA1

after written motion and for just cause, sajd party shall not be permitted to argue, and said motion shall be considered unopposed.

The parties shall appear in Room 226 U.S. Courthouse, Detroit, Michigan, and shall be heard on oral argument on April 30, 1984 at 9:00 AM .

Both the moving party and the party opposing the motion should be prepared to submit to the court their proposed orders at the conclusion of oral argument.

IT IS SO ORDERED.

Anna Diggs Taylor
Anna Diggs Taylor
U.S. District Judge

Dated: Apr 18, 1984

APPENDIX BB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,

Plaintiff,

-vs- Civil Case No. 82-70212

GENERAL MOTORS CORP.,
HYDRA-MATIC DIVISION,

Defendant.

_____/

ORDER

Plaintiff having filed a motion to set aside summary judgment, the court having scheduled the motion for oral argument defendant thereafter having filed a response to the motion, and the court now wishing to decide the motion on the basis of the papers filed and without oral argument.

IT IS HEREBY ORDERED that the motion be decided on the papers without oral argument and that the previously set hear-

APPENDIX BB1

ing date be and is cancelled.

ANNA DIGGS TAYLOR
ANNA DIGGS TAYLOR

Dated: APR 26 1984

on matters not sought in the original Suit No. 80-72246? (2) Did Appellant have a cause against Appellee General Motors Corporation?

Appellant also say with emphasis: There appear to have been a purpose designed scheme of deception on the part of the Appellee in this case No. 82-70212 that greatly parallel incidences in Root Refining Co. -vs- Universal Oil Products Co.---American Safty Table Co. -vs- Singer Sewing Machine Co. 169 F.2d 514 from the "Get Go" (beginning to end).

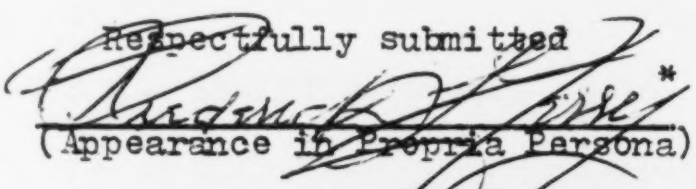
WHEREFORE, and for all the above reasons Frederick L. Jerry, Appellant prays and request that this Honorable Court set aside Judgment granted by the District Court unto the Appellee General Motors Corporation, and remand cause back with orders for an expeditious Hearing of Ap-

APPENDIX XX-1

pellant's Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damages; Appellant further prays and request that his "Motion To Set Aside Summary Judgment (C.C.R. E.N. 47)," and "Notice" filed April 5, 1984 (C.C.R. E.N. 49), and "Motion To Set Summary Judgment Aside(C.C.R. E.N. 64)" be granted entry in Suit No. 82-70212. And whatever other relief as may be just.

Probable jurisdiction should be noted*

Respectfully submitted



(Appearance in Propria Persona) *

Address 21331 Kipling Street

Oak Park, Michigan 48237

Telephone: (313) 5447736

* Appearance in propria persona of record.

APPENDIX C-1

"Order" denying 52(b) motion).

This appeal is taken pursuant to Title 28 U.S.C. Section 1252 and Title 28 U.S.C. Section 2101(b) and Title 28 U.S.C. Section 1653 and Federal Rules Of Civil Procedure Rule 60(b) and (1) and (2).

Frederick L. Jerry
(Counsel for Appellant

Address 21331 Kipling Street

Oak Park, Michigan 48237

Telephone: (313) 5447736

Date:

COPY 6 - PLAINTIFF'S COPY